

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION**

**BENJAMIN LESHAWN COOPER,**

**Petitioner,**

**V.**

UNITED STATES OF AMERICA,

**Respondent.**

CIVIL ACTION NO.: CV509-038

(Case No.: CR592-029)

## ORDER

Presently before the Court are Benjamin LeShawn Cooper's (Cooper) Objections to the Magistrate Judge's Report and Recommendation. In his Objections, Cooper asserts that 28 U.S.C. 2244(b)(3)(A) does not apply to his successive 28 U.S.C. § 2255 motion. Cooper cites Stewart v. Martinez-Villareal, 523 U.S. 637 (1998), as standing for this proposition. However, in Stewart, the petitioner's claim was determined to not be "second or successive" because "[t]here was only one application for habeas relief, and the District Court ruled (or should have ruled) on each claim at the time it became ripe." Id. at 643. Cooper has filed successive claims in this instance and has failed to obtain permission from the Eleventh Circuit Court of Appeals to file this successive § 2255 motion. Therefore, the Report properly stated that this Court lacks jurisdiction to consider Cooper's motion.

Cooper's Objections are without merit and are **overruled**. The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Cooper's petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2255, is **DISMISSED**. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 22<sup>nd</sup> day of April, 2010.



HONORABLE J. RANDAL HALL  
UNITED STATES DISTRICT JUDGE